

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY KENNEY,)	CIVIL ACTION
)	
Plaintiff,)	No. 2:12-CV-551-LPL
)	
vs.)	
)	
CITY OF PITTSBURGH, CHIEF OF)	
POLICE NATHAN HARPER,)	
OFFICER MATTHEW TURKO AND)	
OFFICER ROBERT SMITH)	
)	
Defendants.)	

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DEPOSITION OF ANTHONY KENNEY

Taken at the law office of
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May 24, 2013

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Reported by:

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ORIGINAL

Anthony Kenney - Examination by Mr. Kennedy

1 So when I went to pull over to stop, my
2 brother ran.

3 Q. This is going to be location No. 3 on the
4 exhibit.

5 I want you to put another rectangle and a No.
6 3 to show where you stopped and your brother got
7 out of the car.

8 A. (Indicates)

9 Q. That is essentially at the intersection of
10 Lafayette and Olive.

11 A. Yes, sir.

12 Q. Is there a stop sign there?

13 A. No, sir.

14 Q. Why did you stop?

15 A. I stopped because how the street is and how they
16 were, I really wanted to just get out of there,
17 too, away from them. And I didn't want to drive
18 in no vehicle if I decide to do that. Because
19 they just pull up, they never had no lights on or
20 anything. I didn't want to go on no high-speed
21 chase or cause any vehicle confrontation. So I
22 pulled over to get out, too.

23 Q. Whose vehicle are you driving that night?

24 A. Mine, sir.

25 Q. What type of vehicle is it?

Anthony Kenney - Examination by Mr. Kennedy

1 A. Yes, for -- not now. The kids are older. But
2 when I was paying the child support for her, they
3 were staying with me. That's why I had a problem
4 paying her. The kids didn't live with her. They
5 lived with me.

6 Q. Prior to you stopping at location No. 3, did the
7 police ever turn on the lights or the sirens to
8 the vehicle?

9 A. They didn't have no sirens, sir, but the lights
10 was on after my brother was out the vehicle.

11 Q. So give me the sequence of events that happens
12 once you bring your vehicle to a stop at location
13 No. 3 on Exhibit 2.

14 A. My brother said, I ain't got this to do. And I'm
15 like, Man, me either.

16 But he opens up the door and runs.

17 The lights come on. And when the lights come
18 on, that's when I know definitely these are
19 police officers.

20 So I stay in the vehicle. And I look to my
21 right, and I see Love and Moss going after my
22 brother.

23 Q. Which direction did your brother run?

24 A. Down Olive.

25 Q. Actually on the street or the sidewalk?

Anthony Kenney - Examination by Mr. Kennedy

1 A. Street. Right smack in the middle.

2 Q. And you were able to actually recognize Love and
3 Moss?

4 A. Yes, sir, clearly.

5 Q. Where did they exit the Impala from?

6 A. I'd say the right side. But I can't give you an
7 accurate of both of them jumping out the same
8 side. But if I lean back, I could see a door
9 open. And then I look and see both of them
10 running behind my brother.

11 Q. So the first you actually see a person is when
12 you are looking to your right side and see them
13 following your brother.

14 A. Yes, sir.

15 Q. Prior to that, you looked over your shoulder and
16 saw a door on the Impala open up.

17 A. No. I seen the door open. It was already open
18 from them going out, sir.

19 Q. And was that open door on the driver's side or
20 the passenger side?

21 A. It was passenger side, sir.

22 Q. Did you ever see the driver's door open?

23 A. No, sir.

24 Q. Was there anything said or shouted or played over
25 a loud speaker?

Anthony Kenney - Examination by Mr. Kennedy

1 A. Yes, sir.

2 Q. As you are driving from location No. 3 to
3 location No. 4, what is the police car behind you
4 doing?

5 A. Well, it wasn't doing nothing when I actually
6 pulled off. But when I seen it move, it kind of
7 like startled me because I didn't think nobody
8 was in it. So my reaction, as far as my aunt's
9 house, now was a reaction there's somebody in
10 this car.

11 So when I went to go like this to look back
12 at them to see it actually moving, my vehicle
13 ended up in front of Sahara's house instead of my
14 aunt's. And I hit the brake, threw it in park
15 immediately.

16 Q. And then what did that police vehicle do after
17 you were stopped at location No. 4?

18 A. It pulled up beside, close to my door, and an
19 officer came out and was pointing his firearm
20 saying, Get the F out of the car.

21 Q. When you say pulled up to the side close to your
22 door, you mean your passenger door?

23 A. Driver door. We were facing uphill.

24 Q. You were facing uphill?

25 A. Yes, sir. That's all uphill.

Anthony Kenney - Examination by Mr. Kennedy

1 and get out.

2 Q. So you indicated to me that you kept your hands
3 in sight while seated inside of your car. You
4 used your elbow to open your door.

5 A. No. I opened it with my finger and pulled the
6 knob and then pushed it open. Because it's on a
7 hill, and it's a heavy, old car, and the doors
8 are heavy. So I didn't want it to slam on me
9 when I got out of the car and slam on my legs.
10 That's something I'm used to doing when I get out
11 of the car to prevent me from hitting my legs.
12 But I just don't have my hands up like this. I
13 always use my elbow to open it up.

14 Q. So when you are opening the door, are you in
15 essence making it a little more difficult for
16 Turko to walk back towards where you are?

17 A. No. Because he's standing patiently waiting for
18 me to get out. Nothing happens until I get all
19 the way out.

20 Q. So what happens next after you get out?

21 A. I'm getting out of the car. I turns to my side,
22 and now the door is hitting me here. It's right
23 here. And when I get halfway out the car, he
24 walks up, and he grabbed me, and he strikes me
25 twice.

Anthony Kenney - Examination by Mr. Kennedy

1 Q. Does he throw you to the ground?

2 A. After -- no. I was up for a few, and he was
3 punching me in my left side of my face.

4 Q. He's punching you in the left side of your face?

5 A. Right.

6 Q. Are you still facing your vehicle?

7 A. Yes.

8 Q. To hit you in the left side of your face, is he
9 using his left hand?

10 A. Yes, sir.

11 Q. And are you trying to lean forward to get away
12 from the blows?

13 A. No. I'm using my shoulder.

14 Q. You're lifting your shoulder.

15 A. I used to box, and I always used to use a
16 shoulder roll to prevent the boxing glove from
17 hitting my head. That was one of Mayweather's
18 moves. And I was used to automatically throw my
19 shoulder up to prevent a lot of his punches
20 because he was throwing numerous punches. That's
21 why when he kept hitting me in the head, that
22 hurt him more than my face.

23 Q. How many punches has he thrown at that point?

24 A. Numerous, sir. It was more than six, I can say
25 that.

Anthony Kenney - Examination by Mr. Kennedy

1 Q. The testimony was about 12 punches.

2 A. Yes.

3 Q. Do you remember testifying it was 12 punches?

4 A. Yes.

5 Q. Is he saying anything?

6 A. Yes. Like, Why the fuck did your brother, like
7 why did he run. He didn't actually say brother.

8 He said, Why did he run, why did he run? He

9 didn't know what was going on down the hill

10 because he was there with me.

11 Q. Did you notice anyone else in the Impala at this
12 point?

13 A. No. There was another officer that hopped out
14 with Turko.

15 Q. When did you notice that other officer hop out?

16 A. At the same time as Turko.

17 Q. They both got out at the same time?

18 A. Yes, sir.

19 Q. And what door did that other officer get out of?

20 A. Actually, I didn't pay attention what door he got
21 out of. But I know that I seen his body on the
22 other side of my car, like he was preventing, to
23 make sure I didn't have a firearm or anything,
24 like I guess backing his partner up.

25 Q. So you saw him on the other side of your car.

Anthony Kenney - Examination by Mr. Kennedy

1 A. Yes. Like Smith was watching through the window
2 on the right side.

3 Q. Did you see how he got to the other side of your
4 car?

5 A. No, I didn't. I didn't pay attention. I kept my
6 eyes on the officer with the firearm because I
7 wanted to make sure that he clearly seen my hands
8 to see that I wasn't trying to go anywhere.

9 Q. Was Smith doing anything when you noticed him on
10 the other side of your car?

11 A. No. He was just observing and keeping his eyes
12 on me.

13 Q. Did he have his gun drawn?

14 A. I didn't pay attention too much to Smith's hand
15 movement. He wasn't doing nothing too strange to
16 scare me or anything.

17 Q. The Impala had four doors, correct?

18 A. Yes, sir. I never seen a two door one before.

19 Q. If Smith was in the front passenger seat of the
20 Impala, he would have to get out even closer to
21 you than Turko got out, correct?

22 A. That's what I'm saying. If I didn't see him get
23 out and only seen him over there, he could have
24 been in the back seat.

25 Like I said, my objective wasn't Smith. At

Anthony Kenney - Examination by Mr. Kennedy

1 But I have been put on the ground by the
2 police until they checked everything and made
3 sure. Especially when we're in groups.

4 Q. Prior to this occasion, had you ever been
5 handcuffed with your hands behind your back and
6 put to the ground?

7 A. Yes, plenty of times.

8 Q. Tell me when those times would have occurred.

9 A. Back in the early '90s when I lived on Federal
10 Street and there were Crips and Bloods. Because
11 they thought everybody was a gang banger until
12 they did their personal investigation, and they
13 know who was doing what and who wasn't do what.

14 But after a while, it didn't happen to me too
15 much because a lot of the police officers on the
16 North Side know who I am.

17 Q. Do you remember the names of any of the officers
18 that put you to the ground when you were
19 handcuffed in the early '90s?

20 A. Duffy did it to me before, Shenacky did it to me
21 before, O'Bar plenty of times.

22 But I never hit my face.

23 Q. So explain to me your position on the ground when
24 you land.

25 A. I land to the ground. He's punching me in my

Anthony Kenney - Examination by Mr. Kennedy

1 to show that your going uphill.

2 First, put a rectangle where the police car
3 was.

4 A. First, let me show you this is the door right
5 here. Here is the squad car.

6 Q. Why don't you put a P in the middle so we know
7 that's the police car.

8 A. (Indicates)

9 Q. Put a stick figure on the ground to show where
10 you were on the ground after Turko swung you
11 around and put you on the ground.

12 A. (Indicates)

13 (Exhibit 5 marked for identification.)

14 Q. Now, what did Smith do during this entire
15 encounter while Turko was doing what he was
16 doing?

17 A. He was standing right here. I'll put an S for
18 Smith. He was standing right here.

19 Q. What happened, then, after Turko put you on the
20 ground behind your car?

21 A. He had his knee into my back. And he looked up,
22 I guess he was making sure, not looking around to
23 see who was around, but as he was looking up, he
24 was punching down, asking me, Why did he run, why
25 did he run. And he kept punching down on my